

United States District Court for the Northern District of New York

Eldred, et al. v. Comforce Corp., et al. No. 3:08-cv-01171

OFFICIAL COURT NOTICE OF SETTLEMENT OF CLASS ACTIONS

**TO: INDIVIDUALS EMPLOYED AS TELECOMMUNICATIONS
INSTALLERS BY COMFORCE CORPORATION AT ANY TIME
FROM OCTOBER 31, 2002 THROUGH OCTOBER 31, 2008.**

RE: SETTLEMENT OF CLASS ACTION LAWSUIT

DATE: FEBRUARY 8, 2011

INTRODUCTION

The parties reached a proposed settlement of \$45,000 to settle this class action lawsuit. Please read this notice carefully. It contains important information about your rights concerning the class action settlement described below.

As described more fully below, to participate in the settlement fund, you must mail a properly completed claim form and release to the claims administrator postmarked by _____, 2011. If you fail to turn in a timely claim form and release, you will receive no monetary distribution from the settlement. If you do not want to participate in the settlement, you must "opt out" of the settlement by _____, 2011. To "opt out," you must mail, on or before _____, 2011, a written, signed statement to the claims administrator that you are opting out of the monetary portion of the settlement (the "opt out statement"). If you do not opt out by _____, 2011, you will be bound by the terms of this settlement, regardless of whether you submit a claim form and release or if you receive money.

Class members are encouraged to participate in this settlement. The law prohibits retaliation against current or former employees who participate in settlements. Participation does not change the settlement amount that defendants will pay because defendants will pay the same, fixed amount regardless of whether you submit a claim form and release.

Important Deadlines:

- Deadline for claim form and release: must be postmarked by _____, 2011.
- Deadline for opt-out statement: must be postmarked by _____, 2011.
- Deadline for objecting to the settlement: must be postmarked by _____, 2011.

This notice contains information about the following topics:

1. What is this lawsuit about?
2. What is the purpose of this notice?
3. Who is class counsel?
4. What are the benefits and terms of the proposed settlement?
5. When is the fairness hearing to approve settlement?
6. How can you object to the proposed settlement?
7. How can you opt out of the proposed settlement?

1. What is this lawsuit about?

Current and former telecommunications installers at Comforce Corporation (“Comforce”) sued Comforce, claiming that Comforce failed to pay travel time, failed to pay prevailing wages, per diem and mileage reimbursement for work performed in New York State on projects involving public funds and wrongfully withheld union dues. Comforce denies the allegations, but wishes to resolve and settle the lawsuit.

The lawsuit is presently before Judge Lawrence E. Kahn, United States District Judge for the Northern District of New York. Judge Kahn has not taken a position or made any decision on the merits of the lawsuit. On _____, 2011, the Court granted preliminary approval of the settlement, subject to a fairness hearing that will take place on _____, 2011, at _____.

2. What is the purpose of this notice?

The purpose of this notice is to inform you of the proposed settlement and of your rights, including:

- The steps you must take to receive any share of the settlement funds;
- Your right to file objections to the settlement; and
- Your right to “opt out” of the settlement class, and thereby preserve your ability to independently bring any claim that you might have.

3. Who is class counsel?

The attorneys for the plaintiffs, who are also the class counsel, can be reached at the following address:

Comforce Litigation
c/o Frank S. Gattuso, Esq.
O’Hara, O’Connell & Ciotoli
7207 East Genesee Street
Fayetteville, New York 13066
(315) 451-3810
Fax: (315) 451-5585

Email: fsg@oharalaw.com

If you have any questions or require additional information, you may write to the above address, or simply call O'Hara, O'Connell & Ciotoli at (315) 451-3810 and state that you are requesting assistance regarding the Comforce Litigation.

4. What are the benefits and terms of the proposed settlement?

Plaintiffs and defendants have agreed to the settlement summarized below. The parties' obligations under the settlement will not become effective unless and until the settlement receives final court approval.

a. *What are the monetary benefits of the settlement?*

Class members who timely and properly complete and return the claim form and release will be eligible to receive a share of the \$45,000 settlement, less certain deductions described below, based on a formula approved by the Court.

The following adjustments will be made to the \$45,000 settlement prior to distribution of the settlement funds to class members:

- Payments to class representatives: If the Court approves such payments, service awards totaling \$2,000.00 will be paid to the named plaintiffs. These payments are made because of the time and effort expended, risks taken, and value added by these plaintiffs in assisting the prosecution of the claims. These payments are separate from and in addition to the shares of the settlement fund that these plaintiffs may receive as class members.
- Claims administrator expenses: If the Court approves such expenses, the claims administrator fees, which cover costs incurred in administering the claims process and distributing settlement checks to class members, will be paid out of the settlement.
- Attorneys' fees: Class counsel will apply to the Court for attorneys' fees of not more than one third of the settlement payment net of expenses and reimbursement of reasonable litigation costs and expenses.
- Each qualifying class member will be paid an equal share of the remaining amount of the settlement. A qualifying class member is a class member who participates in this settlement by not mailing in an opt-out notice.

b. *What is the legal effect of participating in the settlement?*

If the Court grants final approval of the settlement, in exchange for the \$45,000 settlement payment, this action will be dismissed with prejudice and class members who do not opt-out will fully release and discharge defendants from all claims relating to

Comforce's alleged failure to pay travel time, failure to pay prevailing wages, per diem and mileage reimbursement for work performed in New York State on projects involving public funds and wrongfully withheld union dues. When a person "releases" claims, that means he or she cannot sue defendants for any of the claims covered by the release.

c. *How can I participate in the settlement?*

If you are receiving this notice you have been identified as a class member. Only qualifying class members may participate and to be a qualifying class member you need to return the claim form and release by the above designated date and you will then be a qualifying class member. If you do not want to participate in this settlement and want to opt-out, instructions for opting-out are found below.

5. When is the fairness hearing to approve the settlement?

The Court has granted preliminary approval of the settlement, concluding preliminarily that the settlement is fair, adequate and reasonable.

A hearing will be held to determine whether final approval of the settlement should be granted. At the hearing, the Court will hear objections, if any, and arguments concerning the fairness of the settlement. The hearing will take place before Judge Kahn on _____, 2011, at _____ in the United States District Court for the Northern District of New York, 445 Broadway, Albany, New York, in Courtroom _____. The Court will also consider class counsel's application for fees and costs.

You are not obligated to attend this hearing. You may attend the hearing if you plan to object to the settlement. You may also retain your own attorney to represent you in your objections. If you wish to attend the fairness hearing to object to the settlement, you must submit a written objection as described in the following section and must state in writing your intention to appear at the fairness hearing by _____, 2011.

6. How can you object to the proposed settlement?

If you wish to object to the settlement, you may submit a written statement of the objection to the claims administrator at the address below. If you wish to present your objection at the fairness hearing, you must state your intention to do so in your written objection. Your written objection must contain a description of all reasons that you object to the settlement. You will not be allowed to present reasons for your objection at the fairness hearing that you did not describe in your written objection.

Your objection will not be heard unless it is mailed to the claims administrator via first class U.S. mail and postmarked by _____, 2011. The address of the claims administrator is:

Rust Consulting, Inc.
625 Marquette Avenue, Suite 880

Minneapolis, MN 55402

7. How can you opt out of the settlement?

You have the right to opt-out, or exclude yourself from these lawsuits and the settlement. If you choose to exclude yourself, you will not be barred from seeking relief with respect to any legal claims and will be free to pursue an individual claim, if any, against defendants, but you will not be eligible to receive the benefits of this settlement. If as many as 10 percent of class members opt out, the settlement will be void.

If you intend to exclude yourself, you must mail a written, signed opt-out statement to the claims administrator that you are opting out of the settlement. For example, you can write the following in your letter: “I wish to be excluded from the *Eldred, et al., v. Comforce Corp., et al.* No. 3:08-cv-01171 settlement.”

Any opt-out statement must be mailed to the claims administrator via first class U.S. mail and postmarked by _____, 2011. The address of the claims administrator is:

Rust Consulting, Inc.
625 Marquette Avenue, Suite 880
Minneapolis, MN 55402